

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

1259 POST LLC d/b/a FLO'S PIZZERIA
& SPORTS BAR,

Case No. 1:20-cv-00626-PLM-PJG

Hon. Paul L. Maloney

Plaintiff,

v.

ORAL ARGUMENT REQUESTED

EMC INSURANCE,

Defendant.

_____ /

**DEFENDANT'S MOTION TO DISMISS AND
MOTION TO STRIKE CLASS ALLEGATIONS**

For the reasons argued in their concurrently-filed Memorandum, Employers Mutual Casualty Company and EMCASCO Insurance Company (collectively, "EMC")¹ bring this motion under Federal Rules of Civil Procedure 12(b)(1), 12(b)(6), 12(f), and 23 to (i) dismiss the above-captioned action for lack of subject-matter jurisdiction and failure to state a claim upon which relief can be granted, as well as to (ii) strike class allegations in the Complaint. In accordance with Local Rule 7.1(d), EMC has ascertained that Plaintiff 1259 Post LLC d/b/a Flo's Pizzeria & Sports Bar will oppose the motion.

¹ The Complaint names "EMC Insurance" as the defendant. "EMC Insurance" is not a legal entity. Instead, Flo's Pizzeria's insurance policies involved in this matter are issued by EMCASCO Insurance Company and Employers Mutual Casualty Company. EMCASCO Insurance Company and Employers Mutual Insurance Company do not waive any defenses or arguments related to Plaintiff's misidentification by filing this motion.

WHEREFORE, EMC requests that this Court enter an order dismissing Plaintiff's claims against it with prejudice and, alternatively, should any part of Plaintiff's claims survive, to strike Plaintiff's class allegations without leave to amend.

Dated: September 8, 2020

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